

## REMARKS

Claims 25, 27-43, 45 and 47 are pending.

### Amendments to the Claims

The amendments to claims 25 and 45 are supported, *inter alia*, by the specification at paragraphs 64 and 65 of the published specification (U.S. Publication Number 2004/0198813A1). The claims are amended to speed up prosecution and without prejudice or disclaimer of the original subject matter claimed therein. No new matter is added by way of these amendments. The applicants reserve the right to pursue any cancelled subject matter in at a later time.

### Rejections under 35 U.S.C. §103(a)

Claims 25-30, 34, 37-39, 40-41, 43 and 47 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. 6024978 ("Hauer") as evidenced by The Merck Index (1989). Applicants respectfully disagree but have nevertheless amended the claims to speed up prosecution. Applicants respectfully submit that this rejection is moot in view of the amendments to the claims.

Applicants respectfully submit that Hauer teaches a "microemulsion pre-concentrate" including a hydrophilic phase, a lipophilic phase and a surfactant (Column 6, lines 30-50.) Microemulsions may be obtained by contacting the pre-concentrate with water or another aqueous medium. (Column 6, lines 60-65.) The lipophilic phase includes a solvent which is devoid of any surfactant function (Column 8, lines 59-67.)

The claimed microemulsion composition includes an oil phase and an aqueous phase, where the oil phase consists essentially of an oil-soluble drug, a long chain polymer surfactant component and a short chain fatty acid

surfactant component. Applicants respectfully submit that Hauer does not teach or suggest the claimed compositions and request that the rejection of claims 25, 27-30, 34, 37-39, 40-41, 43 and 47 under 35 U.S.C § 103(a) be withdrawn.

Claims 33-33, 39 and 45 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hauer in view of WO 9408610 ("Constantinides".) Applicants have discussed Hauer above and respectfully submit that Constantinides does not make up for the deficiencies of Hauer. Constantinides teaches emulsions including an oil and a water soluble biologically active agent (page 5, lines 9-17.) Constantinides does not teach or suggest an emulsion including an oil phase consisting essentially of an oil-soluble drug, a long chain polymer surfactant component and a short chain fatty acid surfactant component. Applicants respectfully request that the rejection of claims 31-33, 39 and 45 under 35 U.S.C § 103(a) be withdrawn.

Claims 34-36 and 42 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hauer as evidenced by The Merck Index (1989, page 1364) in view of The Merck Index (1989, page 478).

Applicants have discussed Hauer above and respectfully submit that they have addressed the deficiencies of this reference. Applicants respectfully request that the rejection of claims 34-36, 39 and 42 under 35 U.S.C § 103(a) be withdrawn.

Applicants submit that the claims are now in condition for allowance. If, for any reason, the Examiner is unable to allow the application and feels that an interview would be helpful to resolve any remaining issues, she is respectfully requested to contact the undersigned attorney at (312) 321-4229.

Respectfully submitted,

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/John Murray/

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